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| 10/047,717 | 10/23/2001 | Richard J. Knapp | 387778.0089 | 3818 |
| 72535 7590 10/17/2007 MCCARTER & ENGLISH, LLP STAMFORD OFFICE FINANCIAL CENTRE, SUITE 304A 695 EAST MAIN STREET STAMFORD, CT 06901-2138 | | | EXAMINER NGUYEN, TAN D | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/047,717

Applicant(s)

KNAPP, RICHARD

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed 6/1/07 has been entered. Claims 1-24 are pending and rejected as followed. Claims 1-14, 22-24 are system claims. Claims 15-21 are method claims.

Claim Objections

1. Claims 20-21 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

1) There is no discussion or citation of "information" in claim 15 and it's not clear how the "restricting access... to pre-approved entities" further limit "permitting access.. by said pre-determined (pre-approved) set of suppliers at said server". It appears that they are equivalent language.

2) There is no discussion of "color attributes" or "measuring a color" or "determination a color parameters" using any kind of equipment in claim 15 or and it's not clear how the "validating operation of color measuring equipment" would further limit claim 15 above which is silent with respect to "color parameters".

Claim Rejections - 35 USC § 112

2. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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1) In independent claims 1, 15, and 22, especially in claim 15, it shows an e-palette "said e-palette ... and including parameters related to said e-palette, said parameters including a set of goods and a predetermined set of suppliers associated with said e-palette by said specifier". The limitation of the e-palette in the claims appear to be different from the specification which makes it vague and confusing. As shown on page 12 of the specification, lines 5-17, the e-palette is "*e.g., electronic representations of desired color palette(s) ('e-palette(s), a supplier list, relevant business data (e.g. contact information), and the like...*", and lines 10-15 "*an e-palette generally includes sets of spectra data, e.g., reflectance, ...and/or associated image or texture map(s)*". Figure 3, element 190 which is "appropriate information" shows 3 separate items or templates of: (1) "e-palettes", (2) "supplier list", and (3) "business data". Therefore, statement as shown in item (a) of claim 15, item (b) of claim 1, and item (c.) of claim 22, appear to be in error since the e-palette appears related to color information and not the parameters as shown in the claim.

Applicant's argument on page 10 of the "Remarks" filed on 6/1/07 is not persuasive. Applicant's citation of dep. claims 7, 16 and 22 which includes "color information" is not proper since it's the language of the specification on page 12 that must be used to explain the meaning of the term "e-palette". It's not clear where the applicant provides support for the phrase shown in the bottom of page 10, "...Parameters associated with an e-palette, by contrast, may include "a predetermined set of suppliers....and combinations thereof".

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 15-21 (method), 1-14 (system), 22-24 (system) are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over YON et al.**

As of 6/1/07, claim 15 is as followed:

15. A method for facilitating communications between a specifier and one or more suppliers, said method comprising:

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a) receiving an e-palette across a computer network at a server, said e-palette originating from a specifier workstation and including parameters related to said e-palette, said parameters including a set of goods and a predetermined set of suppliers associated with said e-palette by said specifier;

b) automatically communicating to said predetermined set of suppliers the existence of said e-palette at said server; and

c) permitting remote access to said e-palette by said predetermined set of suppliers at said server.

Similarly, **YON et al** discloses a method for facilitating communications between a specifier and one or more suppliers, said method comprising:

a) receiving an electronic (web) template/page or palette across a computer network at a server, said template/page (palette) originating from a specifier (customer or purchaser) workstation and including parameters related to said template/palette, said parameters including a set of goods (product) and a predetermined set of suppliers associated with said template/palette by said specifier (customer/purchaser);

{see Figs. 1, 2, elements 32, 34, 36, 44, Fig. 4, elements 52, Fig. 6, 60, cols. 3, lines 5-65, col. 4, lines 5-40, col. 7, lines 1-65}

b) automatically communicating to said predetermined set of suppliers the existence of said template/web page (palette) at said server; and

{see Fig. 1, col. 3, lines 4-45, col. 7, lines 1-60}}

c) permitting remote access to said template/palette by said predetermined set of suppliers at said server.

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{see col. 3, lines 4-40, col. 7, lines 1-12, col. 8, lines 4-45}.

Note, as for the term “e-palette” which appears to be similar to electronic template or page or web page, this is taught in YON et al on cols. 3-4, Figs. 2-5. Note that on col. 4, lines 15-20, YON et al discloses the field (44) on Fig. 2 as “color palette field”. Therefore, the teaching of Fig. 2 reads over “e-palette”. Alternative, since the palettes of Fig. 2 and col. 4, lines 1-25 are transferred via electronically (via the Internet), it would have been obvious to change the name of web page or template in YON et al to e-palette if desired to indicate that the palette is carried out electronically.

Note also that on col. 7, lines 1-10, YON et al teaches the management of access control database to achieve 2 goals:

- (1) prevent unauthorized access to the host computer system, and
- (2) with respect to companies that are authorized to access the host computer system 14, enforce any limitations on the authorized access.

Alternatively, in view of these teachings, it would have been obvious to obtain a predetermined set of suppliers at said server to give authorized access to the host computer and prevent unauthorized access to the computer for those that are not predetermined.

As for dep. claim 16 (part of 15 above), which deal with well known color palettes parameters or features, these are well known and are taught in cols. 3-5 or 7.

As for dep. claims 17-20 (part of 15 above), which deal with well known effective communication parameters between entities to facilitate the transaction (order) effectively or properly, these are well known and are taught in Figs. 1, 2 and 4,

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"Search", "Browse", "Options" and "Order" and "Verification", and cols. 3-8, especially col. 5, lines 15-20, 45-67. Alternatively, it would have been obvious to a skilled artisan to provide iterative communication between the two entities, reports with respect to the communication above to ensure effective or clear communication between the two entities with respect to the order (transaction) so errors due to misunderstanding or lack of reporting can be avoided.

As for dep. claim 21 (part of 15 above), which deal with well known practice for checking or validating operation of a color measuring (matching) equipment related in the transaction to ensure proper color communication between two entities, this is taught in col. 4, lines 26-65, col. 7, lines 15-67, Fig. 6.

Note on col. 8, lines 33-40, "understood by those skilled in the art that various changes may be made and equivalents maybe substituted for elements thereof without departing from the scope of the invention.... Many modifications....", these limitations as shown in the above dependent claims are well known non-essential inputs, changes and/or modifications to provide effective e-communication parameters of various parties involved in an e-transaction related to color features and would have been obvious to a skilled artisan to carry out these parameters.

As for system claims 1-14 and 22-24, which are merely system to carry out the method claims 15-21 respectively above, they are rejected over the system of YON et al to carry out the rejection of method steps claim 1 as cited above. Alternatively, the set

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up of a computer system to carry out the computer-implemented method claim 15 above would have been obvious to a skilled artisan.

Claims 2-24 (part of 1 above) and 23-24 (part of 22 above) which have similar limitations as in dep. claims 16-21 (part of 15 above), they are rejected for the same reasons set forth in the rejections of dep. claims 16-21 above.

7. Dependent claim 21 is rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over YON et al as applied to claims 1-21 above, and further in view of CHAN.

CHAN is cited to teach the inclusion of a color measuring equipment (spectrophotometer) to measure the color attributes associated with an electronic color spectra received on a computer {see Fig. 1, 2, 14, col. 4, lines 45-59}. It would have been obvious to modify the teachings of YON et al to include a color measuring equipment (spectrophotometer) for inputting accurate color parameters or appropriate coordinates of a color space on a computer as taught by CHAN. The validation of a proper operation of the color measuring equipment (spectrophotometer) would have been obvious to a skilled artisan to ensure accurate color measurement and matching as required in CHAN.

8. **Claims 15-21 (method), 1-14 (system), 22-24 (system) are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CHAN.**

As for claim 15, CHAN discloses a method for facilitating communications between a specifier and one or more suppliers, said method comprising:

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a) receiving an electronic (web) template/page or palette across a computer network at a server, said template/page (palette) originating from a specifier (customer or purchaser) workstation and including parameters related to said template/palette, said parameters including a set of goods (product) and a predetermined set of suppliers associated with said template/palette by said specifier (customer/purchaser);

{see Figs. 1, 2, 3}

b) automatically communicating to said predetermined set of suppliers the existence of said template/page/palette at said server; and

{see Figs. 1-3, col. 2, lines 32-67, cols. 3-4}

c) permitting remote access to said template/palette by said predetermined set of suppliers at said server.

{see Figs. 1-3, col. 2, lines 32-67}.

Note, as for the term "e-palette" which appears to be similar to electronic template or page or web page, this is taught in CHAN on Fig. 3. Alternative, since the template of Fig. 3 is transferred via electronically (via the Internet), it would have been obvious to change the name of web page or template in CHAN to e-palette if desired to indicate that the palette is carried out electronically.

Alternatively, in view of these teachings, it would have been obvious to obtain a predetermined set of suppliers at said server to give authorized access to the host computer and prevent unauthorized access to the computer for those that are not predetermined.

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As for dep. claim 16 (part of 15 above), which deal with well known color palettes parameters or features, these are well known and are taught in Fig. 3, cols. 4-5.

As for dep. claims 17-20 (part of 15 above), which deal with well known effective communication parameters between entities to facilitate the transaction (order) effectively or properly, these are well known and are taught in cols. 3-4. Alternatively, it would have been obvious to a skilled artisan to provide iterative communication between the two entities, reports with respect to the communication above to ensure effective or clear communication between the two entities with respect to the order (transaction) so errors due to misunderstanding or lack of reporting can be avoided.

As for dep. claim 21 (part of 15 above), which deal with well known practice for checking or validating operation of a color measuring (matching) equipment related in the transaction to ensure proper color communication between two entities, this is taught in Figs. 1, 2, 14, col. 4, lines 45-59}

Note on col. 8, lines 62-67 “understood by those skilled in the art that various changes may be made and equivalents maybe substituted for elements thereof without departing from the scope of the invention.... Many modifications....”, these limitations as shown in the above dependent claims are well known non-essential inputs, changes and/or modifications to provide effective e-communication parameters of various parties involved in an e-transaction related to color features and would have been obvious to a skilled artisan to carry out these parameters.

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As for system claims 1-14 and 22-24, which are merely system to carry out the method claims 15-21 respectively above, they are rejected over the system of CHAN to carry out the rejection of method steps claim 1 as cited above. Alternatively, the set up of a computer system to carry out the computer-implemented method claim 15 above would have been obvious to a skilled artisan.

Claims 2-24 (part of 1 above) and 23-24 (part of 22 above) which have similar limitations as in dep. claims 16-21 (part of 15 above), they are rejected for the same reasons set forth in the rejections of dep. claims 16-21 above.

Response to Arguments

9. Applicant's comments with respect to the use of the Affidavit/Declaration of 1.131, filed 6/1/07, are noted and the 103 rejections of SHERRILL or STONE et al have been withdrawn. However, new rejections have been applied as cited above.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1) NPL: The Article of "Pantone Announces ...for E-commerce", 11/30/1999 fairly teaches the claimed invention above and cited here for applicant's awareness of potential use in the future if needed to avoid multiple rejections.

2) NPL: The article "color World", April-Sept. 1999, fairly teaches the claimed invention above and cited here for applicant's awareness of potential use in the future if needed to avoid multiple rejections.

3) NPL: The article "TextileMaster", by X-Rite, April 2000, fairly teaches the claimed invention above and cited here for applicant's awareness of potential use in the future if needed to avoid multiple rejections.

No claims are allowed.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

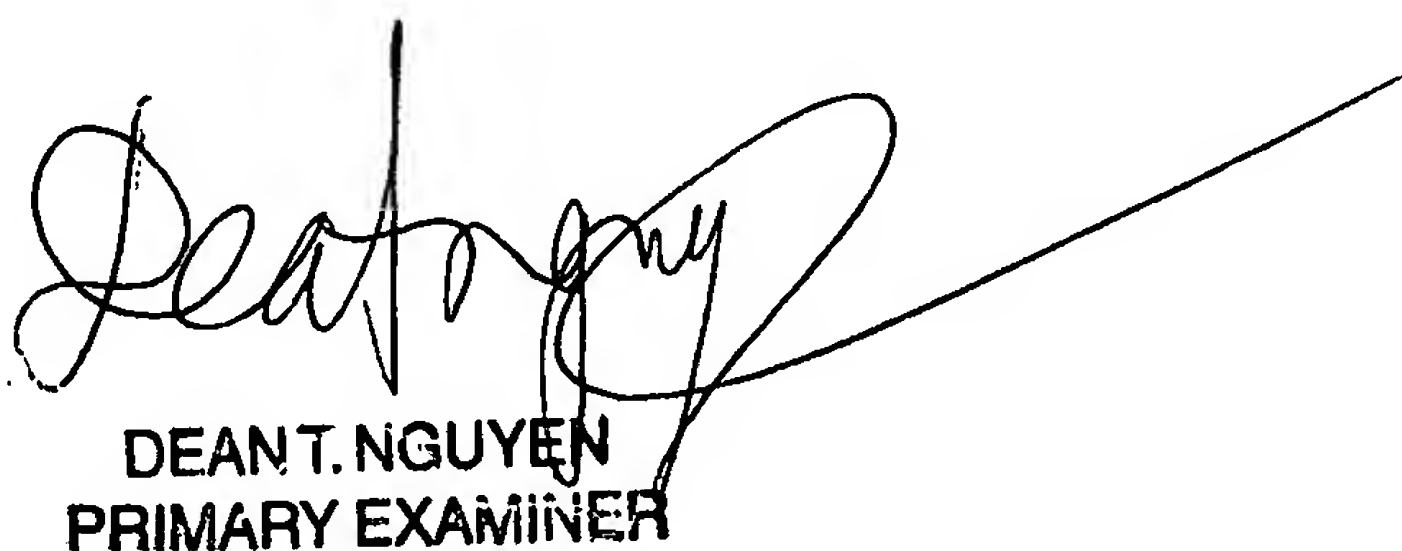
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
October 14, 2007



DEAN T. NGUYEN
PRIMARY EXAMINER